

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

LISA G. BEYER,

CV 03-714-JE

Plaintiff,

ORDER

v.

BAKER SCHOOL DISTRICT 5J and  
DAVID S. GILES,

Defendants.

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**BROWN, Judge.**

Magistrate Judge John Jelderks issued Findings and Recommendation (#95) on February 14, 2005, in which he recommended the Court grant Defendants' Motions for Summary Judgment (#53, #58) as to Plaintiff's federal claims. The Magistrate Judge also recommended the Court decline supplemental jurisdiction of Plaintiff's state law claims or, in the alternative, grant Defendants' Motions for Summary Judgment on Plaintiff's state law claims for intentional infliction of emotional distress, constructive discharge, and discrimination and deny Defendants' Motions as to Plaintiff's state law claims for battery. The Magistrate Judge also recommended denying Defendants' Motions to Strike (#75, #78) as moot. The matter is now before this Court pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b).

Plaintiff and Defendants filed timely objections to the Findings and Recommendation with respect to Defendants' Motions for Summary Judgment. When any party objects to any portion of the Magistrate Judge's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate Judge's report. 28 U.S.C. § 636(b)(1). See also *United States v. Bernhardt*, 840 F.2d 1441, 1444 (9<sup>th</sup> Cir. 1988); *McDonnell Douglas Corp. v. Commodore Business Machines, Inc.*, 656 F.2d 1309, 1313 (9<sup>th</sup> Cir. 1981), *cert. denied*, 455 U.S. 920

(1982).

The parties did not object to the Magistrate Judge's recommendation regarding Defendants' Motions to Strike. When no party objects to a Findings and Recommendation, this Court is relieved of its obligation to review the record *de novo*. *Britt v. Simi Valley Unified School Dist.*, 708 F.2d 452, 454 (9<sup>th</sup> Cir. 1983). See also *Lorin Corp. v. Goto & Co.*, 700 F.2d 1202, 1206 (8<sup>th</sup> Cir. 1983).

This Court has reviewed the pertinent portions of the record *de novo* and finds no error in the Magistrate Judge's Findings and Recommendation regarding the Motions for Summary Judgment. With respect to the Motions to Strike, the Court has reviewed the legal principles *de novo* and does not find any error.

Although the Magistrate Judge recommended declining supplemental jurisdiction, in light of the fact that Plaintiff expects to appeal this Court's decision dismissing her federal claims and some of her state law claims, the Court finds it is improvident to require the parties to litigate the unresolved state claims in state court and thereby become engaged in simultaneous litigation in two courts over the same core set of facts. The Court, therefore, in the exercise of its discretion, retains supplemental jurisdiction over the state law claims.

Accordingly, the Court adopts the Magistrate Judge's Findings and Recommendation as modified and grants Defendants'

Motions for Summary Judgment on Plaintiff's state law claims for intentional infliction of emotional distress, constructive discharge, and discrimination and denies Defendants' Motions as to Plaintiff's state law claims for battery. The Court further adopts the Magistrate Judge's Findings and Recommendation as to Defendants' Motions to Strike and denies same as moot.

### CONCLUSION

The Court **ADOPTS** Magistrate Judge Jelderks's Findings and Recommendation (#95) as modified and, accordingly, **GRANTS** Defendants' Motions for Summary Judgment (#53, #58) with respect to Plaintiff's federal claims and Plaintiff's state law claims for intentional infliction of emotional distress, constructive discharge, and discrimination. The Court **DENIES** Defendants' Motions for Summary Judgment (#53, #58) with respect to Plaintiff's state law claims for battery and retains supplemental jurisdiction over those claims. The Court also **DENIES** Defendants' Motions to Strike (#75, #78) as **MOOT**.

IT IS SO ORDERED.

DATED this 3<sup>rd</sup> day of June, 2005.

/s/ Anna J. Brown

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ANNA J. BROWN  
United States District Judge

